

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MYRA SULLIVAN,

Civil 05-2294 (JNE/JJG)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MICHAEL LEAVITT,
Secretary DHHS,

Defendant.

Plaintiff commenced this action on September 30, 2005, by filing a complaint and an application for leave to proceed in forma pauperis, ("IFP"). This Court examined the IFP application and found that Plaintiff had not adequately demonstrated that she is indigent and cannot afford to pay the \$250 filing fee prescribed by 28 U.S.C. § 1914(a). Therefore, by order dated October 4, 2005, (Docket No. 3), Plaintiff's IFP application was denied.

The Court's order informed Plaintiff that although she would not be granted IFP status, she could still maintain this action if she paid the statutory filing fee. Plaintiff was advised that if she intended to pursue her claims in this action as a non-IFP litigant, she would have to pay the full \$250 filing fee within twenty days. Plaintiff was further advised that if she did not pay the \$250 filing fee within twenty days, it would be recommended that her action be dismissed, without prejudice, pursuant to Fed. R. Civ. P. 41(b).

The deadline for paying the filing fee established by the Court's prior order has now passed. To date, however, Plaintiff has not paid her filing fee, nor has she contacted the Court, or communicated with the Court, in any way. Therefore, it is now recommended, in

accordance with the Court's prior order, that Plaintiff be deemed to have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

See Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: November 9, 2005

s/Jeanne J. Graham

JEANNE J. GRAHAM
United States Magistrate Judge

Pursuant to D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by November 30, 2005. A party may respond to the objections within ten days after service thereof. Any objections or responses filed under this rule shall not exceed 3,500 words. A District Judge shall make a de novo determination of those portions to which objection is made. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the United States Court of Appeals for the Eighth Circuit. Unless the parties are prepared to stipulate that the District Court is not required by 28 U.S.C. § 636 to review a transcript of the hearing in order to resolve all objections made to this Report and Recommendation, the party making the objections shall timely order and cause to be filed within ten days a complete transcript of the hearing.